

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FELTON LOVE, JR.,

Plaintiff,

v.

JEFF MACOMBER, et al.,

Defendants.

No. 2:23-cv-00790-DJC-EFB (PC)

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 20, 2023, the Magistrate Judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff has not filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations regarding dismissal of the case to be supported by the record and by proper analysis. However,

1 while the Magistrate Judge recommends that the dismissal be without prejudice, this
2 Court had previously warned Plaintiff that “[f]ailure to file an amended complaint
3 within the time provided may result in the dismissal of this action, *with prejudice*.”
4 (ECF No. 26 at p. 2 n. 2 (emphasis added).) As the Plaintiff failed to file an amended
5 complaint as ordered, this dismissal is with prejudice.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. The findings and recommendations filed November 20, 2023 are adopted in
8 part;
9 2. The complaint is dismissed with prejudice for failure to state a claim; and
10 3. The Clerk of Court is directed to close the case.

11 IT IS SO ORDERED.

12
13 Dated: **January 12, 2024**


Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE